

1 DAVID J. BERGER (Bar No. 147645)
2 DOMINIQUE-CHANTALE ALEPIN (Bar No. 241648)
3 WILSON SONSINI GOODRICH & ROSATI
4 650 Page Mill Road
5 Palo Alto, CA 94304
6 Telephone: (650) 493-9300
7 Facsimile: (650) 493-6811
8 dalepin@wsgr.com

9 JENNY L. DIXON (Bar No. 192638)
10 WILSON SONSINI GOODRICH & ROSATI
11 One Market Street
12 Spear Tower, Suite 3300
13 San Francisco, CA 94105
14 Telephone: (415) 947-2000
15 Facsimile: (415) 947-2099
16 jldixon@wsgr.com

17 Attorneys for Plaintiffs
18 IRWIN UNION BANK AND TRUST COMPANY
19 And IRWIN HOME EQUITY CORPORATION

20 UNITED STATES DISTRICT COURT

21 NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

22 IRWIN UNION BANK AND TRUST
23 COMPANY AND IRWIN HOME EQUITY
24 CORPORATION

25 Plaintiffs

26 vs.

27 FREEDOM MORTGAGE COMPANY

28 Defendant

) Case No. C08-00472-PJH

) **PLAINTIFFS' SUBMISSION RE**
) **JOINT CASE MANAGEMENT**
) **CONFERENCE STATEMENT**

1 Plaintiffs Irwin Home Equity Corporation ("IHE") and Irwin Union Bank and Trust
2 Company ("Irwin Union") respectfully make this submission in connection with the Case
3 Management Conference scheduled for May 1, 2008.

4 On April 16, 2008, counsel for Plaintiffs contacted counsel for Defendant Freedom
5 Mortgage Corporation to schedule a time to conduct the conference required under Fed. R. Civ. P.
6 16 and 26(f) and Civil L.R. 16-10 and to discuss the preparation and submission of the joint case
7 management conference statement. In doing so, Plaintiffs sought to satisfy the parties'
8 obligations under the Court's January 22, 2008 Order.

9 Counsel for Defendant declined to discuss these matters on the ground that Defendant
10 could not agree to take any substantive action in this case until its Motion to Dismiss or Stay
11 Action and for an Order Compelling Arbitration has been decided. Defendant refused to discuss
12 discovery and Fed. R. Civ. P. 26 matters claiming that the Court lacks any jurisdiction to hear the
13 case. Plaintiffs advised Defendant that the pending motion did not relieve the parties of their
14 obligations to comply with or stay court-ordered deadlines such as those set forth in the Court's
15 January 22, 2008 Order. A true and correct copy of the email exchange between counsel is
16 attached hereto as Exhibit A.

17 As set forth in Plaintiffs' Response Re: Defendant's Motion to Dismiss or Stay Action and
18 for an Order Compelling Arbitration, jurisdiction is proper in this Court and the Court should
19 retain jurisdiction over this action. Plaintiffs respectfully request that this Court set new deadlines
20 for filing of the Joint Case Management Conference Statement and a new date for the currently
21 scheduled May 1, 2008 CMC.

22 Dated: April 24, 2008

Respectfully submitted,

23 WILSON SONSINI GOODRICH & ROSATI
24 Professional Corporation
25 David J. Berger (Bar No. 2163400)
Jenny Lyne Dixon (Bar No. 192638)
Dominique-Chantale Alepin (Bar No. 241648)

26 By: /s/ Jenny L. Dixon
27 Jenny L. Dixon

28 650 Page Mill Road
Palo Alto, CA 94304

Telephone: (650) 493-9300

Facsimile: (650) 493-6811

Attorneys for Plaintiffs

Irwin Home Equity Corporation and Irwin

Union Bank and Trust Company

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EXHIBIT A

From: Dixon, Jenny Lyne
Sent: Wednesday, April 16, 2008 5:43 PM
To: 'John Crossman'; 'Frank Welzer'
Cc: Berger, David
Subject: RE: Irwin/Freedom

As you know, we disagree with your position and do believe that this Court has jurisdiction to hear this case. Freedom's motion does not operate to relieve the parties of, or to stay, court-ordered deadlines. Accordingly, we intend to abide by and comply with the deadlines set forth under the FRCP and Local Rules, which currently require the submission of a Rule 26(f) report and CMC statement on April 24, 2008. If you wish, we are happy to attach a copy of your email stating your position.

From: John Crossman [mailto:JCrossman@zgbllp.com]
Sent: Wednesday, April 16, 2008 11:10 AM
To: Dixon, Jenny Lyne; Frank Welzer
Cc: Berger, David
Subject: RE: Irwin/Freedom

Dear Jenny,

We cannot agree to take any action substantively in the case until our motion to dismiss or stay is decided. As I'm sure you will appreciate, we do not want to be in the position of being seen to have waived our claim that arbitration is the proper forum. And additionally, since the Court lacks any jurisdiction to hear the case, discovery and other Rule 26 type matters are thoroughly out of order. Rest assured that we will make ourselves available promptly to discuss with you these kinds of issues in the appropriate forum just as soon as that forum is settled.

Thanks. See you at the hearing on April 30th.

John

John K. Crossman
Zukerman Gore & Brandeis LLP
875 Third Avenue, 28th Floor
New York, New York 10022
212 223 6700

From: Dixon, Jenny Lyne [mailto:JLDixon@wsgr.com]
Sent: Wednesday, April 16, 2008 1:57 PM
To: John Crossman; Frank Welzer
Cc: Berger, David
Subject: Irwin/Freedom

Gentlemen:

I would like to schedule a time on Thursday or Friday to meet and confer on Rule 26(f) and Case Management Conference issues for the N.D. Cal. action. Please let me know some times that will work for you.

Jenny L. Dixon

Wilson Sonsini Goodrich & Rosati
One Market
Spear Tower, Suite 3300
San Francisco, CA 94105
voice: (415) 947-2103
fax: (415) 947-2099
email: jldixon@wsgr.com

4/24/2008

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